UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

EUGENIE SAMUEL REICH,)	
Plaintiff,)	
v.) C.A. No. 09-10883-N	MG
U.S. DEPARTMENT OF ENERGY, and OAK RIDGE NATIONAL LABORATORY)))	
Defendants.)	

STATUS REPORT PURSUANT TO THIS COURT'S MARCH 24, 2010, ORDER

On March 24, 2010, this Court held a scheduling conference in this matter. At the conclusion of that conference, this Court directed undersigned counsel to report to this Court regarding what materials, responsive to the Plaintiff's FOIA request, were in, or have ever been within, the physical possession of the U.S. Department of Energy ("DOE").¹

Undersigned counsel has been informed that there is only one record in the possession of DOE that is responsive to the Plaintiff's FOIA request. That responsive document is a draft copy of a report of an investigation into allegations of research misconduct or fraud in connection with work that was carried out by DOE contractor UT-Battelle at Oak Ridge National Laboratory. On August 15, 2006, a copy of that draft report was e-mailed by an employee of

¹The Clerk's Notes suggest that the government's interpretation of the Court' intent is mistaken, providing that "Defendant will inform Plaintiff of available material by 3/31/10." There is no transcript of the proceedings, and, admittedly, it is entirely possible that undersigned counsel has misunderstood this Court's intent. Accordingly, the instant report covers both possibilities. Assuming undersigned counsel is mistaken, the instant report will serve to equally inform the Plaintiff concerning what records DOE physically possesses consistent with the Clerk's notes.

UT-Battelle to Dr. Patricia Dehmer, then Associate Director of Basic Energy Sciences for DOE. That document remains in the possession of DOE. No other document responsive to the Plaintiff's FOIA request was in the possession of DOE at the time the FOIA request was filed, or has been in the possession of DOE at any later time.

As this Court has ordered that the "subject report" be submitted for in camera review,² DOE will provide the copy of the draft report which was e-mailed to Dr. Dehmer for *in camera* review with its summary judgment motion.

Respectfully submitted, UNITED STATES OF AMERICA By its attorneys, CARMEN M. ORTIZ United States Attorney

By: /s/ Mark Grady
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Dated: March 31, 2010

CERTIFICATE OF SERVICE

I, Mark Grady, Assistant U.S. Attorney, hereby certify that the foregoing Status Report was filed through the Electronic Court Filing system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing.

/s/ Mark Grady
MARK GRADY
Assistant United States Attorney

Dated: March 31, 2010

²As no transcript exists of the status conference, the government re-iterates its objection to the court's order for *in camera* production herein so as to make a written record of its objection.